

Message Text

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PAGE 01 MADRID 05443 141940Z

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ACTION EUR-12

INFO OCT-01 ISO-00 EURE-00 SSO-00 NSCE-00 USIE-00 INRE-00

CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03 NSAE-00 NSC-05

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FM AMEMBASSY MADRID

TO SECSTATE WASHDC IMMEDIATE 6393

INFO AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY DUBLIN

AMEMBASSY THE HAGUE

AMEMBASSY BRUSSELS

AMEMBASSY LISBON

AMEMBASSY COPENHAGEN

AMEMBASSY STOCKHOLM

AMEMBASSY OLSO

USMISSION NATO

USEC BRUSSELS

C O N F I D E N T I A L MADRID 5443

E.O. 11652: GDS

TAG : PINT, SP

SUBJECT: PENAL CODE ADOPTED BUT GOVT LOSES FACE

REF: MADRID 5422

SUMMARY: LAW REVISING THE PENAL CODE WHICH REMOVES
REMAINING OBSTACLES TO ACTIVITIES OF NON-COMMUNIST POLITICAL
PARTIES WAS APPROVED BUT ONLY BY A PLURALITY IN CORTES SESSION
JULY 14. GOVT ABSTENTIONS ON TWO PROCEDURAL KEY VOTES INVOLVING
COMMUNIST ISSUE -- THE "PLURALIST" FORMULA FAILED AND THE
"TOTALITARIAN" FORMULA PASSED -- CAUSED INCREDULITY
AMONG DEPUTIES. END SUMMARY.

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PAGE 02 MADRID 05443 141940Z

1. THE CORTES HELD A SPECIAL PLENUM JULY 14, THE FIRST

FOR THE NEW GOVT AND THE FIRST SINCE JUNE 30 WHEN THE PREVIOUS GOVT FAILED TO HAVE ITS BILL FOR THE REVISION OF THE PENAL CODE ADOPTED. THE CHAIRMAN OF THE JUSTICE SUBCOMMITTEE WHICH PREPARED THE SUBCOMMITTEE'S REPORT SAID THAT CHANGES IN THE PENAL CODE WERE ABSOLUTELY NECESSARY TO REMOVE ANY THREAT TO ACTIVITY BY POLITICAL PARTIES AUTHORIZED BY THE LAW ON POLITICAL ASSOCIATIONS ADOPTED JUNE 10. HE RECOMMENDED THAT THE SUBCOMMITTEE'S "SUGGESTION" FOR BANNING PARTIES THAT OPPOSE POLITICAL PLURALISM BE APPROVED SAYING THAT THE COMMITTEE APPROVED IT BY 27 VOTES TO 7. THE SECOND AND LAST SPEAKER, JUSTICE MINISTER LAVILLA, MADE AN EFFECTIVE SPEECH IN DEFENSE OF SUBCOMMITTEE'S REPORT BUT WITHOUT EXPLICITLY SUPPORTING ITS "SUGGESTION".

2. CORTES PRESIDENT FERNANDEZ MIRANDA ASKED FOR A PROCEDURAL VOTE ON WHETHER THE SUBCOMMITTEE "SUGGESTION" SHOULD BE CONSIDERED BY PLENUM. HE FIRST TRIED A STANDING VOTE WHICH SHOWED THAT THE CHAMBER WAS ALMOST EQUALLY DIVIDED, THEN HE ASKED FOR A NOMINAL VOTE (226 VOTED YEA, 203 NAY AND 57 ABSTENTIONS). SOME DEPUTIES BEGAN TO GRUMBLE WHEN THEY NOTICED THAT THE ENTIRE GOVT ABSTAINED ON THIS VOTE.

3. AFTER A BRIEF BREAK, THE CORTES PRESIDENT DESCRIBED PROCEDURES FOR A SECOND NOMINAL VOTE ON WHETHER OR NOT THE "SUGGESTION" SHOULD BE INCORPORATED IN THE LAW TO REVISE THE PENAL CODE. THERE WAS GRUMBLING AGAIN ABOUT THE PRESIDENT'S PROCEDURAL APPROACH WITH SOME RIGHTIST DEPUTIES OBJECTING THAT THERE HAD BEEN NO OPPORTUNITY FOR DEBATE. IN THIS VOTE, THE "SUGGESTION" WAS TURNED DOWN (240 NAYS, 128 YEAS AND 49 ABSTENTIONS INCLUDING THE ENTIRE GOVT). THERE WAS GRUMBLING AMONG LIBERAL DEPUTIES ABOUT THE GOVT'S AGAIN ABSTAINING.

4. BEFORE GOING AHEAD WITH A FINAL VOTE ON THE ENTIRE LAW (WITH THE "TOTALITARIAN" FORMULA INCLUDED) FERNANDEZ MIRANDA ASKED FOR A PROCEDURAL VOTE ON WHETHER OR NOT A NOMINAL OR STANDING VOTE SHOULD BE HELD. FOR THE FIRST TIME, THE GOVT STOOD UP IN SUPPORT OF A NOMINAL VOTE WHICH WAS TAKEN AS A SIGNAL TO MEAN THAT IT SUPPORTED THE BILL'S CONFIDENTIAL

CONFIDENTIAL

PAGE 03 MADRID 05443 141940Z

ADOPTION. THE FINAL VOTE WHICH WAS NOMINAL APPROVED THE BILL BY 245 TO 175 WITH 57 ABSTENTIONS. MANY LIBERAL DEPUTIES JOINED IN OPPOSING THE BILL BECAUSE OF DISSATISFACTION WITH ITS MORE RESTRICTIVE LANGUAGE, ONE DEPUTY DESCRIBED THE AFFAIR AS THE SPANISH INCLINATION TO INDULGE IN "LA POLITIQUE DU PIRE".

5. A NUMBER OF DEPUTIES OF VARYING PERSUASIONS SAID PRIVATELY THAT THEY COULD NOT COMPREHEND GOVT'S ABSTENTION ON FIRST

TWO VOTES. SOME LIBERALS WITH A TOUCH OF HYPERBOLE, CLAIMED GOVT HAD LOST ITS CREDIBILITY WITH REFORMERS AND THIS AFFAIR HAD HAMPERED ITS ABILITY TO DIALOGUE WITH THE OPPOSITION. OTHERS, PARTICULARLY IN THE RIGHT, WERE INFURIATED WITH CORTES PRESIDENT IN MANIPULATING THE DISCUSSION OF THE GOVT BILL UNDER THE REVISED PROCEDURE TO SPEED UP ADOPTION OF REFORM LAWS. (SILVA MUNOZ ABSTAINED ON EVERYTHING.) MILITARY FIGURES IN THE CORTES (MOSTLY RETIRED BUT SOME ACTIVE) VOTES NO ON THE FIRST TWO VOTES. THE RUMOR IN THE CORTES LOBBY WAS THAT THE FOUR MILITARY MINISTERS HAD WARNED SUAREZ THAT IF THE GOVT SUPPORTED THE SUBCOMMITTEE'S "SUGGESTION", THEY WOULD BE COMPELLED TO VOTE AGAINST THE GOVT. WE BELIEVE THAT MILITARY WERE INDEED DEEPLY CONCERNED BY WILLINGNESS OF PREVIOUS GOVERNMENT TO SUPPORT MORE LIBERAL LANGUAGE REGARDING PCE.

6. PREMIER SUAREZ APPEARED SOMEWHAT NERVOUS AS TO OUTCOME AS THE CONFUSED PROCEEDINGS DEVELOPED. OUR INITIAL IMPRESSION IS THAT THE NEW GOVT HAS INDEED LOST SOME FACE IN THEIR HANDLING OF THIS PHASE OF REFORM LEGISLATION, THOUGH THE LAW, THE FINAL PIECE OF THE PROCESS OF LEGALIZING POLITICAL ACTIVITY BY NON-COMMUNIST PARTIES IS NOW IN THE BOOKS.
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